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May 31, 1996

Office of the Secretary
Federal Communications Commission
1919 M. Street, N.W.
Room 222
Washington, D.C. 20554

Dear Office of the Secretary:

Please find enclosed a paper on my "Reply to Comments" in the matter of Implementation of the Local Competition Provisions on the Telecommunications Act of 1996. There is a cover page, summary and comments. There are five pages total.

Sincerely,

Richard N. Koch

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May 31, 1996

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	
	)	

Reply Comments of Richard N. Koch

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Summary

As a new entrant into the local market I found that the comments presented reflected real business concerns by all parties. However, the different opinions and views expressed are not directly aimed at the goal of swiftly opening up the local markets to competition. Almost all of the comments favored something that I could agree with, although a good number had me scrawling profanities in the margins. Posturing and positioning to either gain the inside track advantage or to keep, soon to be archaic, procedures in place are short term goals of almost all the commentators I am hopeful that the Federal Government of the people and by the people will put the people first and business interests second. An open free competitive market is all a scrappy upstart companies are asking for.

The Commission clearly has the authority and obligation to set the rules so that companies such as mine can enter the market swiftly and compete at the lowest cost, while offering the widest array of services to the American public.

As we implement new laws and hence change the basic way the telecommunications industry operates, the FCC has to look at the past infrastructure and realize that it also has to be changed. Many of the old procedures and regulatory duties are no longer needed, in fact, they are a hindrance to moving swiftly into the new telecommunications age that congress has mandated.

After reading the other comments I clearly have a major case of the David and Goliath Syndrome. That is not a deterrent, in fact, having dealt with almost every "Goliath" commentator in the past, I look forward to moving and reacting quicker with more agility to gain market share. The following are some specific issues from the comments that are particularly unfair and anti-competitive to any new entrant.

Reseller Issues:

Everybody agrees that reselling, at least in the initial phases of competition, is necessary. Many commentators would like to see restrictions on resale. PUCs, ILECs and facilities-based providers all have reasons for limiting, restricting or forcing negotiations upon resellers. The market should be as open as possible. Congress did not intend that only established, large companies should be able to compete. The Commission should eliminate as many entry barriers as possible and let the competitive market determine who will succeed.

Comments from TCI such as "Pure resellers cannot introduce new services into the market" are not true if resellers are allowed to purchase all network elements. Time Warner; "...must not stimulate market entry and expansion through resale by bestowing artificial costing or other advantages on resellers". Why not do exactly that, after all who wins, only the American consumer! The National Cable Television Association; "In establishing the "wholesale rate" for resale by incumbent carriers the Commission should

avoid a discount so deep that it deters investment in new facilities." Obviously they want to attract investment dollars. But that is not the goal of the Act. We should be striving to provide the best services to the American public with the least overhead. All of these companies want the Commission to "up the anti" to play in the local market. A move that is blatantly anti-competitive and not in the public interest. There is nothing wrong with new entrants that do not yet have large facilities being able to effectively compete in the market. Congress did not say to open the market to only a few companies that have lots of facilities. These companies fear competition - the exact thing Congress is trying to promote!

PUCs, Negotiations, Regulations, Procedures:

A few of the state PUCs chose to comment. As a new entrant I was quite dismayed by the fact that the intended goal of swift open competition for anybody was not genuinely anywhere to be found in their comments. The state regulatory agencies did not say "lets get rid of every barrier and help open the market to competition." They clearly want to keep the status quo. The state PUCs that commented have to realize that the regulations, hearings, lobbying dances and proceedings that were necessary to protect the public interest from the monopoly are no longer needed. PUCs are an important facilitator of the Act, but their role as protector of the public interest has to change with the times.

Telecommunications is making our world smaller. We no longer hear the phrase "its a long distance call," and drop everything. A strong national policy supported by state PUCs is the only way competition and universal service will come to all of America. The last thing we need is continued unnecessary archaic regulations, negotiations, arbitrations, lobbying and proceedings in fifty different locations.

It was frightening to read the Mass Department of Public Utilities statement "If a party feels aggrieved by a state's determination, that party has recourse to Federal district court for relief." That means if a LEC can lobby a PUC for a decision that hampers my ability to compete all I have to look forward to is years in Federal court. Even if I spent the time and money to fight and win in court, I would have lost in the market place. If we keep the status quo, open and free competition will not become a reality.

The status quo in Massachusetts was just reported in the Boston Globe last week, Sunday, May 25, 1996. The feature article headline read "Mass. lagging in phone competition." The article put the blame on state regulators stating "state regulators missed the deadline set by the new federal telecommunications law for opening the local market. Massachusetts residents will have to wait at least until next year." My fear is that without sweeping reform involving the PUCs there will be tremendous unnecessary log jams holding up swift competition. The Commission should take a strong authoritative role in dealing with the state regulators and resist all the commentators that want nothing stronger than "suggestions" from the Commission.

Market Forces Instead of Regulatory Law:

This issue hits right at the heart of the Telecommunications Act. The Act transforms a monopolistic product and service industry into an open competitive market. The comments of most PUCs and ILECs, while stating they are in favor of competition, continue to argue for keeping many regulatory laws and rules that are no longer necessary. Many of the rules regulations and procedures hamper competition.

A specific example is the issue raised by PUCs and ILECs concerning residential and business rates. Rates have been traditionally set to reflect two classes of service, one for residential and one for business. They were done that way for a lot of good reasons. The fear is that new entrants, if not restricted and forced to honor those pricing schemes, will somehow upset the apple cart.

Under the "old" system where local telephone service was a monopoly there was a public need for such service plans. If, for example, the food industry was a monopoly then state government regulators would be expected step in and create service plans to make sure everybody was able to have universal food service. However food and such basic necessities of life such as building materials, clothing and gasoline do not have regulated prices and classes of service. There is no need for classes of service, the market forces in a free competitive market place are all that is necessary.

Residential and business class of service is a rate and universal service issue not a facilities issue, since 94% of households have phone service. There will be competition in the market and all the new competitive LECs in the market will have the same costs and the main ILEC has even lower costs, since they may be reselling at a "reasonable profit". The natural competition for customers will make any forced class of service unnecessary. Different classes of service and rates will be one of the first relics of the "old monopoly days." We cannot establish an open and competitive market place and levy restrictions on the competitors it is just not necessary

This principle should apply to all classes of service and regulations that were necessary in a monopolistic market place but are now unnecessary in the new competitive market created by the Telecommunications Act of 1996.

ILECs:

Under no circumstances should the ILECs be allowed any entry into inter-LATA markets or manufacturing until new entrants, such as myself, can successfully enter and compete in a viable business manner in the local markets.

The comments of all the ILECs have a common thread: Let us remain in control of the local market. Pacific Telesis; "We urge the commission to let privately negotiating

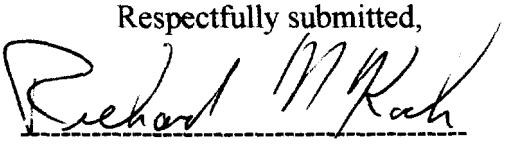
parties and States create a wide range of permissible outcomes, as Congress intended them to do." NYNEX; " Consistent with Congress' intent, the Commission should allow carriers to achieve interconnection through voluntary negotiations." One can only conclude that there is another Congress other than the US Congress they are referring to.

The power of each ILEC should not be used to delay or thwart competition. Nobody, including Congress (the US one), believes that competition will come to the local market in any swift meaningful manner if the main competitor in each market can assume a dominant role in all negotiations, issues, and costs.

It is only natural and prudent business practice for ILECs to try and keep as much authority and market dominance as possible. It is for this very reason that the Commission must step up and counter these tendencies by providing enough federal regulation and authority to make sure the American consumer receives the benefits of true, open, and fair competition.

I remain available for any further assistance.

Respectfully submitted,



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